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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,650	07/16/2003	Thomas J. Hayes	47097-01079USC1	1477
28763	7590	09/26/2006		
BAKER BOTTS, LLP 30 ROCKEFELLER PLAZA NEW YORK, NY 10112-4498			EXAMINER CASTELLANO, STEPHEN J	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,650

Applicant(s)

HAYES ET AL.

Examiner

Stephen J. Castellano

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51-118 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 74-97 is/are allowed.
6) ☒ Claim(s) 51-73 and 98-118 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claims 1-50 have been canceled. Claims 51-118 are pending.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 98-118 are rejected under 35 U.S.C. 102(b) as being anticipated by Goins et al. ('453)(Goins).

Goins discloses a food packaging cover 10, the cover is capable of being used as a base if turned upside-down and used like a bowl. Goins discloses a rib structure. The rib structure includes first rib units, each first unit includes a first outward rib (panel 28 and two one-half portions of inward ribs adjacent to panel 28 including gussets 42) and a first inward rib (inward rib 26 adjacent to the panel 28). The rib structure includes second rib units, each second rib unit includes a second inward rib (next inwardly directed portion adjacent to the first inward rib to the side away from the first outward rib). The second inward projecting rib extends inwardly a distance less than the first inward projecting rib extends.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 51-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goins et al. ('453)(Goins) in view of Lucas, Jr. et al. (Lucas).

Goins discloses a food packaging cover 10, the cover is capable of being used as a base if turned upside-down and used like a bowl. Goins discloses a rib structure. The rib structure includes first rib units, each first unit extends from the midpoint of rib 26 to the midpoint of an adjacent rib 26 but is not touching another first rib unit such that the first rib units are spaced circumferentially and includes one rib 28, two inwardly extending ribs immediately adjacent to rib 28, two projections 36 and one projection. The rib structure also includes second rib units, each second unit consisting of the inwardly projecting rib adjacent to but not part of the first rib unit and touching a rib 28, each second unit has a gusset 42. The first rib units include a first outwardly projecting rib (the entire first rib unit) and a first inwardly projecting rib (the inwardly projecting portion touching rib 28 within a first rib unit). formed within the first outwardly projecting rib. The second rib units consist of only the inwardly projecting rib. The second inwardly projecting rib having the exact same vertical height as the first inwardly projecting rib. Goins discloses the invention except for the second inward projecting rib being shorter than the first inward projecting rib. Lucas teaches a food cover that is similar to Goins and is capable of being used as a base if turned upside-down and used like a bowl. Lucas teaches inwardly projecting ribs 54a of shorter vertical height than the vertical height of the inwardly projecting ribs 54. It would have been obvious to modify the second inward projecting ribs of Goins to be shorter than the first inward projecting ribs for the reasons advanced by Lucas as stated in col. 5, lines 24-31 to improve stability.

The terminal disclaimer filed on June 13, 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 6,619,501 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claims 74-97 are allowed.

Applicant's arguments filed June 13, 2006 have been fully considered but they are not persuasive. Applicant states that Goins is a lid and that examiner contradicts the disclosure by inverting the lid and using the lid as a base. The examiner agrees. Applicant states that inverting would defeat the aim of Goins. Since the aim of Goins is to store a product and the container stores product in either the upright or inverted configuration, the aim of Goins is not defeated. Applicant states that the Goins fails to disclose inwardly projecting ribs. The sidewall and top (base when inverted) are formed in one-piece as an integrally molded structure of substantially constant thickness. The ribs and indentations on the exterior have corresponding indentations and ribs, respectively on the interior. The ribs on the interior which correspond to exterior indentations are inwardly projecting ribs.


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on Tu-F 6:30-5.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc